

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARY JO SILVA,

Plaintiff,

v.

No. 1:17-cv-1085

METROPOLITAN PROPERTY
AND CASUALTY INSURANCE
COMPANY,

Defendant.

**NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

COMES NOW Defendant, Metropolitan Property and Casualty Company (“Defendant”), by and through its attorneys of record, Butt Thornton & Baehr PC (James H. Johansen and Amy E. Headrick), and hereby files its Notice of Removal, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441, from the First Judicial District Court of Santa Fe County, State of New Mexico, to the United States District Court for the District of New Mexico on the following grounds:

1. Plaintiff filed this civil action against Defendant in the First Judicial District Court, County of Santa Fe, State of New Mexico, Case No. D-101-CV-2017-02729. Pursuant to D.N.M. LR-CIV 81.1, a copy of the Complaint, along with copies of all records and proceedings are attached hereto as **Exhibit A**.

2. According to the Complaint, filed September 27, 2017, Plaintiff is a citizen and resident of the County of Santa Fe, State of New Mexico. [Complaint at ¶ 1].

3. Metropolitan Property and Casualty Insurance Company is a foreign corporation, incorporated in the state of Rhode Island with its principal place of business in the state of Rhode

Island, thus Metropolitan Property and Casualty Insurance Company is a citizen of the state of Rhode Island for the purposes of diversity citizenship under 28 U.S.C. § 1332.

4. Defendant Metropolitan Property and Casualty Insurance Company was served with the Complaint in this matter, through the New Mexico Superintendent of Insurance, effective October 3, 2017.

5. Complete diversity of citizenship exists between Plaintiff and Defendant.

6. The Complaint alleges two counts against Defendant, including (1) negligence and reckless conduct with demand for punitive damages; and (2) breach of covenant of good faith and fair dealing and statutory violations. [Complaint at ¶¶12-27].

7. The Complaint alleges a claim for \$50,000.00 in underinsured motorist coverage, and also includes a demand for punitive damages against Defendant Metropolitan for alleged bad faith. In addition, the Complaint seeks multiple of damages pursuant to the Unfair Practices Act and attorneys' fees. [Complaint at ¶¶ 21-27].

8. Although Defendant does not admit Plaintiff has been damaged in any amount as the result of the actions of Defendant, the amount in controversy of Plaintiff's claims as indicated by the allegations contained in the Complaint exceeds \$75,000.00. Therefore, the amount in controversy requirement of this Court is satisfied.

9. Plaintiff's Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. §1332 and which is removable by Defendant under the provisions of 28 U.S.C. §1441 in that:

- a. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and
- b. The matter in controversy is between citizens of different states.

10. This Notice of Removal was filed with this Court within thirty (30) days after Defendant was served with Plaintiff's Amended Complaint.

11. Defendant, immediately upon the filing of this original Notice of Removal, gave written notice of the filing as required by 28 U.S.C. §1446 (D) and filed a copy thereof with the Clerk of the First Judicial District Court, County of Santa Fe, State of New Mexico, the Court from which this action is removed.

12. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Defendant Metropolitan Property and Casualty Insurance Company requests that the above-entitled action remain in this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ James H. Johansen

James H. Johansen

Amy E. Headrick

*Attorneys for Defendant, Metropolitan
Property and Casualty Insurance Company*

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I hereby certify that on the 1st day of November, 2017, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel to be served by e-mail; and electronic means, as more fully reflected on the Notice of Electronic filing:

Linda G. Hemphill, Esq.
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/s/ James H. Johansen

James H. Johansen